

REMARKS

By this Amendment, claims 1, 3-6 and 8-12 and FIGS. 1a-b are amended, claims 13-15 are newly added, and claim 2 is canceled without prejudice or disclaimer to the subject matter therein. Claim 1 is amended to positively recite the features of claim 2. Support for the amendment to claim 1 may be found, for example, in the embodiments of the invention shown in paragraph [0022] of the detailed description and in FIGS. 1a-b. Support for newly added claims 13-15 may be found, for example, in FIGS. 1a-b. Accordingly, after entry of this Amendment, claims 1 and 3-15 will remain pending in the patent application. Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

The drawings were objected to under 37 C.F.R. §1.83(a). In connection with the objection, the Examiner indicated that it must be shown that the top portion of the second member is, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the second connecting means or the feature(s) canceled from the claim(s). In response, an arrow is added in FIGS. 1a-b to show that the top portion of the second member 3 is translatable, as a whole, in the height adjustment direction of the at least one slat, up to the level of the second connecting means 5. A replacement sheet including new FIGS. 1a-b is enclosed herewith. It is respectfully submitted that the amendments to FIGS. 1a-b obviate the objection.

Accordingly, reconsideration and withdrawal of the objection to the drawings are respectfully requested.

In the Office Action, claim 9 was objected to because of the recitation "to be received a corresponding." In response, claim 9 is amended to delete this recitation and to recite that the first connecting means comprises two protrusions arranged to be engaged within two successive recesses of said plurality of recesses of the second connecting means. It is respectfully submitted that the amendments to claim 9 obviate the objection.

Accordingly, reconsideration and withdrawal of the objection to the claim 9 are respectfully requested.

Claims 1-2, 4-9 and 11-12 were rejected under 35 U.S.C. §102(b) based on Salens (U.S. Pat. No. 4,752,981). The rejection is respectfully traversed.

Claim 2 is canceled without prejudice or disclaimer, thus rendering the rejection of claim 2 moot.

Claim 1 is patentable over Salens at least because this claim recites a device for attaching at least one slat of a slatted base to a frame of the slatted base wherein, *inter alia*, the resilient member comprises a first and a second part which are each connected to the base portion by means of a first connecting member, the second connecting means are connected to the base portion by means of a connecting member which is separate from the first connecting member, and the first and second parts of the resilient member are disposed on opposite sides of the second connecting means in such a way that when compressing the resilient member, the top portion of the second member is, as a whole, translatable in the height adjustment direction of the least one slat, up to the level of the second connecting means. Salens does not disclose, teach or suggest a device including these features.

Salens discloses a device, for attaching slats of a slatted base to a frame, that includes a bearing 7 (identified as the “first member”) arranged to be attached to the inner side of the base and comprising pins 6 (identified as “first connecting means”). (See FIG. 1). Salens further discloses that the device includes a lath support 1 (identified as the “second member”) that constitutes a one-piece element, which comprises a lath holder 2 (identified as the “top portion”) configured to receive an extremity of a slat, and a foot 4 (identified as the “base portion”) that is connected to the lath holder via a middle skeleton 3 (identified as the “resilient member”). The lath support includes cavities 5 (identified as the “second connecting means”) that are configured to cooperate with the connecting pins 6 to attach the lath support 1 to the bearing 7.

However, unlike the invention of claim 1, Salens fails to disclose, teach or suggest a resilient member that comprises a first and a second part which are each connected to the base portion by means of a first connecting member. Salens merely discloses that the middle skeleton 3 extends from the upper portion of the foot 4 into two arms 16, which merge in the uppermost portion of skeleton 3 forming a lath holder 2. (See col. 2, lines 30-32 and lines 61-64 and FIG. 1). Therefore, in Salens, there is not a first connecting member that connects each of the first and second parts to the base portion.

Moreover, as opposed to the invention of claim 1, Salens fails to disclose, teach or suggest that the first and second part of the resilient member are disposed on opposite sides of the second connecting means. As mentioned previously, in Salens, the middle skeleton 3 merely extends from the upper portion of the foot 4 into two arms 10. As such, the middle skeleton 3 and the arms 10 are not arranged on opposite sides of the pins 5.

Furthermore, in contrast to the invention of claim 1, Salens fails to disclose, teach or suggest second connecting means that are connected to the base portion by means of a

connecting member. Salens merely discloses the cavities 5 are formed within the foot 4. (See col. 2, lines 46-47). As such, in Salens, there is not a first connecting member that connects the cavities 5 to the foot 4.

In addition, unlike the invention of claim 1, Salens is silent about a first connecting member, which connects each of the first and second parts to the base portion, that is separate from a connecting member, which connects the second connecting means to the base portion. As mentioned previously, Salens merely discloses a one-piece element in which the pins are formed integrally within the foot 4 and in which the middle skeleton 3 extends from the upper portion of the foot 4. As such, Salens does not disclose, teach or suggest a first connecting member and a connecting member, much less a first connecting member that is separate from a connecting member.

Because the resilient member of claim 1 comprises first and second parts, which are separate from the second connecting means, and which are connected to the base portion independently of the second connecting means, the resilient member is compressible independently of the connecting means and is displaceable with respect to the frame in such a way that the top portion 1'' of the second member may be displaced to the level of the second connecting means 5.

In response to Applicant's Amendment filed on January 7, 2005, the Examiner indicated that "although Salens is silent to the Applicant's claimed feature, the top portion 2 of Salens is clearly inherently capable of translating in the height adjustment direction of the one slat, up to the level of the second connecting means 5 once a load is placed on the top portion and the resilient member 3 is compressed as a result of the load being applied." Applicant respectfully disagrees with this assertion and notes that "in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied prior art." (See MPEP §2112 citing Ex Parte Levy, 17 U.S.P.Q. 2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)). Applicant respectfully submits that the Examiner's determination merely states as a conclusion that the device of Salens inherently performs the features of claim 1, but fails to provide any basis in fact and/or technical reasoning to reasonably support the determination. MPEP 2112 requires the Examiner to provide reasons, not a mere statement of conclusion. For at least this reason, Applicant respectfully submits that the Examiner has failed, in the Office Action, to provide rationale or evidence tending to show inherency.

Moreover, contrary to the Examiner's assertion, Salens is incapable of inherently providing such a feature. As mentioned previously and as can be seen in FIG. 1, the middle skeleton 3 is positioned on top of the connecting means 5 and forms one part therewith. When exerting a pressure to the top 14 of the second connecting member, the top portion is displaceable in the height adjustment direction of the slat, to a position where the middle skeleton 3 is either canted as shown in FIG.5 of Salens or fully compressed. In both cases, at maximal compression of the middle skeleton 3, the position to which the top portion 14 will be displaced, is the position where top portion 14 is located on top of middle skeleton 3. This is a position which is substantially above the second connecting means 5 as the thickness of the material forming the resilient member will always be located between the top portion 14 and the second connecting means. Salens clearly states that the "lath support 1 includes a lath holder 2 affixed above a middle skeleton 3 and a foot 4 descending from skeleton 3." (See col. 2, lines 30-31 and FIG. 1, emphasis added). Therefore, the top portion 14 of Salens will never be, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the pins 5 (identified as the "second connecting means"), as in claim 1. As such, asserting that "the top portion 2 of Salens is clearly inherently capable of translating in the height adjustment direction of the one slat, up to the level of the second connecting means 5 once a load is placed on the top portion and the resilient member 3 is compressed as a result of the load being applied" is clearly incorrect.

Because Salens does not provide each and every element recited by claim 1, Salens cannot anticipate claim 1.

Claims 4-9 and 11-12 are patentable over Salens at least by virtue of their dependency from claim 1 and for the additional features recited therein.

Accordingly, reconsideration and withdrawal of the rejection of claims 1-2, 4-9 and 11-12 under 35 U.S.C. §102(b) based on Salens are respectfully requested.

Claim 3 was rejected under 35 U.S.C. §103(a) based on Salens in view of Weber (U.S. Pat. No. 5,924,149). The rejection is respectfully traversed.

Claim 3 is patentable over Salens at least by virtue of its dependency from claim 1 and for the additional features recited therein. Namely, claim 3 is patentable over Salens at least because this claim recites a device for attaching at least one slat of a slatted base to a frame of the slatted base wherein, *inter alia*, the resilient member comprises a first and a second part which are each connected to the base portion by means of a first connecting member, the second connecting means are connected to the base portion by means of a connecting member which is separate from the first connecting member, and the first and

second part of the resilient member are disposed on opposite sides of the second connecting means in such a way that when compressing the resilient member, the top portion of the second member is, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the second connecting means. As mentioned previously, Salens does not disclose, teach or suggest these features.

Weber fails to remedy the deficiencies of Salens. Weber discloses a device including a second member formed as a one-piece element comprising a central spring element 1, a three-point bridge suspension 2, 2' and transverse connections 6, 6' (identified as the "first and second resilient members"), disposed on opposite sides of the central spring element 1. Weber further discloses that the three-point bridge suspension 2, 2' and transverse connections 6, 6' extend from the mount eyes 9, 9' (that most closely corresponds to the "second connecting means" of claim 3), which are arranged to cooperate with the mount journals 3, 3' (that most closely corresponds to the "first connecting means" of claim 3).

However, unlike the invention of claim 3, Weber fails to disclose, teach or suggest that the three-point bridge suspension 2, 2' and transverse connections 6, 6' are each connected to the base portion by means of a first connecting member. Weber merely discloses that the three-point bridge suspension 2, 2' and transverse connections 6, 6' are formed integrally within the three-point bridge structure (that most closely corresponds to the "second member") and are directly connected to the connecting means. Therefore, Weber is silent about a first connecting member, as recited in claim 3.

Furthermore, in contrast to the invention of claim 3, Weber fails to disclose, teach or suggest that the second connecting means are connected to the base portion by means of a connecting member which is separate from the first connecting member. Weber merely discloses that the mount eyes 9, 9' are formed integrally within the remaining portion of the base structure and that the three-point bridge suspension 2, 2' and transverse connections 6, 6' extend from the mount eyes 9, 9'. As such, Weber is silent about a connecting member as recited in claim 3.

Moreover, unlike the invention of claim 3, Weber fails to disclose, teach or suggest that the first and second parts of the resilient member are disposed on opposite sides of the second connecting means in such a way that when compressing the resilient member, the top portion of the second member is, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the second connecting means. Weber merely discloses that the mount eyes 9, 9' are formed integrally within the remaining portion of the three-point bridge structure and that the three-point bridge suspension 2, 2' and transverse connections 6,

6' extend from, and in between, the mount eyes 9, 9'. As such, contrary to what is asserted by the Examiner, the first and second resilient members (1,2,6) (1,2,6') are not disposed on opposite sides of either of the second connecting means 9 or 9'. Furthermore, the first and second resilient members of Weber are not arranged in such a way that when compressing the resilient member (1,2,6) (1,2,6'), the top portion of the second member is, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the second connecting means.

For all of these reasons, Weber does not remedy the deficiencies of Salens. Therefore, any reasonable combination of Weber and Salens cannot result in any way in the invention of claim 3.

Furthermore, Applicant respectfully submits that there is no motivation or suggestion to combine these references.

The Examiner concludes on page 4, lines 15-17, that the features of claim 3 would have been obvious from the disclosure of Weber because it would "provide optimal adjustment and positive support." Applicant respectfully disagrees and notes that the Examiner provides no teaching, suggestion, and/or motivation for such a determination.

Weber merely relates to a single structure that is connected to the frame bed at a single position. Specifically, Weber discloses that the mount eyes 9, 9' (that most closely correspond to the "second connecting means" of claim 3) are arranged to cooperate with the mount journals 3, 3'. In Weber, there is therefore only one single position between the three points bridge structure and the bed frame. As such, asserting that Weber would "provide optimal adjustment and positive support" is clearly incorrect and unsupported by Weber's disclosure. Therefore, one of ordinary skill in the art would clearly not be motivated to modify Salens in view of Weber.

Furthermore, in view of the fact that Salens discloses a support member that can have a plurality of positions relative to the bedframe and that Weber discloses a structure that is affixed to the bedframe at one single position, one skilled in the art would not be motivated to modify Salens with Weber's teachings.

Moreover, Applicant respectfully submits that the Examiner's determination that the combination of Salens and Weber would provide optimal support is purely speculative at best. Salens clearly teaches that the middle skeleton 3, which is arranged between the upper portion of the foot 4 and the lath holder 2, allows the lath holder 2 to deflect relative to the foot 4. (*See* col. 1, lines 59-61 and FIG. 5). As such, providing a resilient member including a first and second part disposed on opposite sides of the pins 5 (identified as the "second

connecting means”) would clearly not facilitate the deflection movement of the lath holder 2 relative to the foot 4 because the arms 16 would then interfere with portions of the foot 4. It is noted that, in Salens, the arms 16 do not interfere with the foot 4 during the flex movement shown in FIG. 5 precisely because the arms are located on the upper portion of the foot 4. Therefore, the Examiner’s suggested modification would clearly defeat the intended purpose of Salens. As such, there is no motivation to combine Salens and Weber. (*See* MPEP §2145).

Accordingly, reconsideration and withdrawal of the rejection of claim 3 under 35 U.S.C. §103(a) based on Salens in view of Weber are respectfully requested.

Claim 10 was rejected under 35 U.S.C. §103(a) based on Salens. The rejection is respectfully traversed.

Claim 10 depends from claim 1 and is therefore patentable over Salens for at least the same reasons as provided in claim 1, and for the additional features recited therein. Namely, claim 10 is patentable over Salens at least because this claim recites a device for attaching at least one slat of a slatted base to a frame of the slatted base wherein, *inter alia*, the resilient member comprises a first and a second part which are each connected to the base portion by means of a first connecting member, the second connecting means are connected to the base portion by means of a connecting member which is separate from the first connecting member, and the first and second parts of the resilient member are disposed on opposite sides of the second connecting means in such a way that when compressing the resilient member, the top portion of the second member is, as a whole, translatable in the height adjustment direction of the at least one slat, up to the level of the second connecting means. As mentioned previously, these features are neither taught nor suggested by Salens. As such, they cannot be rendered obvious in view of Salens.

Accordingly, reconsideration and withdrawal of the rejection of claim 10 under 35 U.S.C. §103(a) based on Salens are respectfully requested.

Claims 13-15 are newly added and define additional subject matter that is novel and non obvious over the art of record. Furthermore, claims 13-15 are patentable over the art of record at least by virtue of their dependency from claim 1. Accordingly, Applicants respectfully submit that claims 13-15 are in condition for allowance.

The rejection having been addressed, Applicants respectfully request issuance of a notice of allowance indicating the allowability of all pending claims. If anything further is necessary to place the application in condition for allowance, Applicants request that the

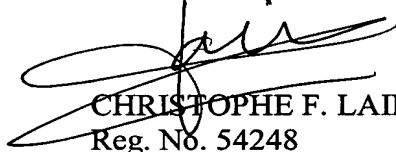
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Examiner contact Applicants' undersigned representative at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP



CHRISTOPHE F. LAIR
Reg. No. 54248
Tel. No. 703.905.2097
Fax No. 703.905.2500

JPD/CFL
P.O. Box 10500
McLean, VA 22102
(703) 905-2000

Attachment: Replacement Sheet

IN THE DRAWING(S):

The attached sheet of drawings includes changes to Figures 1a-b. This sheet replaces the original sheet showing Figures 1a-b .